

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

In re:	)	PROMESA
THE FINANCIAL OVERSIGHT AND	)	Title III
MANAGEMENT BOARD FOR PUERTO RICO,	)	)
as representative of	)	No. 17 BK 3283-LTS
THE COMMONWEALTH OF PUERTO RICO,	)	(Jointly Administered)
<i>et al.</i>	)	)
Debtors.	)	)
In re:	)	)
THE FINANCIAL OVERSIGHT AND	)	PROMESA
MANAGEMENT BOARD FOR PUERTO RICO,	)	Title III
as representative of	)	)
PUERTO RICO ELECTRIC POWER	)	No. 17 BK 4780-LTS
AUTHORITY (“PREPA”)	)	)
Debtor. <sup>1</sup>	)	)
	)	)

**INFORMATIVE MOTION OF COBRA ACQUISITIONS LLC  
IN CONNECTION WITH THE ORDER REGARDING COBRA  
ACQUISITIONS LLC’S MOTION TO MODIFY STAY ORDER**

<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5233-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

To the Honorable United States District Judge Laura Taylor Swain:

Cobra Acquisitions LLC (“Cobra”) submits this informative motion (the “Motion”) in connection with the *Order Regarding Cobra Acquisitions LLC’s Motion to Modify Stay Order* [Case No. 17-BK-3283, ECF No. 24547] (the “Timetable Order”), which resolved *Cobra Acquisitions LLC’s Motion to Modify Stay Order* [Case No. 17-BK-3283, ECF No. 24219] (the “Lift Stay Motion”),<sup>1</sup> and respectfully states as follows:

## STATEMENT

1. As of the filing of this Motion, Cobra remains unpaid on most of the Approved Unpaid Invoices, amounting to more than \$80 million.<sup>2</sup> FEMA obligated funding for these invoices in March 2023, and PREPA is continuing to incur interest on these invoices at a rate of 1% per month—an unfortunate waste of PREPA’s resources. Based on the nonresponsive answers Cobra has received to date, it appears that PREPA will continue not to pay these amounts for the foreseeable future. Cobra filed the Lift Stay Motion to avoid precisely this scenario and accepted a resolution of it based on PREPA’s representations that it would timely commit to review and pay the Approved Unpaid Invoices.

2. Unfortunately, as often the case, PREPA’s actions speak louder than its words. PREPA estimated for Cobra and the Court that it would complete its validation process for the Approved Unpaid Invoices and, excluding invoices PREPA determined it could pay Cobra immediately, submit these invoices to COR3 for reimbursement within “2 weeks” (i.e., June 28, 2023) for approximately \$62 million in invoices or “4 weeks” (i.e., July 12, 2023) for

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<sup>1</sup> Unless otherwise specified, capitalized terms have the same meaning as in the Lift Stay Motion.

<sup>2</sup> On August 2, 2023, the Court entered an order further continuing the litigation stay applicable to Cobra’s administrative expense claims until October 31, 2023 [Case No. 17-3283, ECF No. 25828]. Cobra currently is engaged in mediation with the Government Parties to resolve the portions of its claims disputed by the Government Parties. However, the Approved Unpaid Invoices—on the purported basis that they are not disputed—are not part of the mediation.

approximately \$39 million in invoices. *See Informative Motion of the Financial Oversight and Management Board for Puerto Rico, Puerto Rico Electric Power Authority, and Puerto Rico Fiscal Agency and Financial Advisory Authority Relating to Order Regarding Cobra Acquisitions LLC's Motion to Modify Stay Order*, dated June 14, 2023 [Case No. 17-4780, ECF No. 3754].

3. Those self-imposed deadlines came and went. PREPA made a partial payment of \$10.7 million in June, which Cobra received. In the status report filed on July 31, 2023, PREPA informed the Court that it had also recommended for payment an additional approximately \$9 million. Cobra, however, received only \$2 million and no explanation of when the balance would be paid. As to the remaining invoices that have yet to be paid, in response to Cobra's inquiries, it was informed that certain invoices had not been certified (notwithstanding that PREPA has had the invoices in question for more than four years) and that PREPA effectively had no solution to these missing certifications because PREPA no longer employed the relevant personnel claimed to be needed to certify. *See Joint Response of the Financial Oversight and Management Board for Puerto Rico, Puerto Rico Electric Power Authority, and Puerto Rico Fiscal Agency and Financial Advisory Authority to the Informative Motion of Cobra Acquisitions LLC in Connection with the Order Regarding Cobra Acquisitions LLC's Motion to Modify Stay Order*, dated July 21, 2023 [Case No. 17-3283, ECF No. 24793]. Cobra has asked PREPA repeatedly how it intends to solve this issue (which, to be clear, is of PREPA's own making). As of the filing of this Motion, Cobra still has not been informed of how PREPA intends to resolve this issue and when PREPA intends to do so.

4. In short, it has been two months since this Court ordered PREPA to provide a timetable for reviewing the Approved Unpaid Invoices, and Cobra has yet to receive not only an accurate timetable, but any revised timetable at all. PREPA was contractually obligated to review

these invoices within days, not years, of receiving them. But as with its contractual obligations, so too here: PREPA acts with impunity. Rather than straight answers and clear timelines, Cobra has been met with derision and accusations, as if the delay was Cobra's fault and that Cobra did not perform hundreds of millions of dollars of work for PREPA over four years ago for which it remains uncompensated.

5.     Cobra is available should the Court have any questions on the foregoing.

*[Remainder of page left blank intentionally]*

**WHEREFORE** Cobra respectfully requests that the Court take notice of the foregoing.

Dated: August 30, 2023

Respectfully submitted,

/s/ Carlos R. Rivera-Ortiz

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--and--

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on this date he electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys of record.

/s/ Carlos R. Rivera-Ortiz

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